

Remarks

Claims 1-12 and 18-20 remain in the application. Independent claims 1 and 10 have been amended in the manner deemed agreeable with the Examiner in a telephonic interview with applicant's attorney while independent claims 12 and 20 are amended to address comments made by the Examiner in the Final Office Action. Accordingly, all of the claims are now considered allowable and the amendment is proper for entry under 37 C.F.R. § 1.116, as discussed in greater detail below.

Applicant's attorney is appreciative of the Examiner's time and cooperation in conducting a telephonic interview regarding the best way to address the comments made by the Examiner in the Final Office Action. At the interview, the Examiner requested additional clarification that the strand relationship at the ends of the coil distinguishes the claimed invention from the cited prior, and supporting arguments addressing the advantages. Accordingly, the language deemed agreeable to the Examiner has been added to those claims and the arguments are submitted below. The Examiner was not ready to agree that amendments to claims 12 and 20, addressing issues raised by the Examiner in the statements of rejection in the final Office Action, would not raise new issues for search or consideration after final action. Nevertheless, the distinctions are commensurate with the Examiner's statement that differences between the invention as previously argued and the cited prior art references were not expressly stated in the claims. Accordingly, Applicant has submitted amendments to claims 12 and 20 that address those positions previously argued but first raised by the Examiner in the final Office Action, and first able to be addressed in this amendment to place the application in better condition for allowance or appeal.

The Examiner rejected claims 1 and 4-10 under 35 U.S.C. § 102(b) as anticipated by Germann. While a spring strand is laterally coiled in the decklid hinge of Germann, the strand ends remain aligned at separated, axial positions along the coil, and are shaped to maintain positions intermediate the ends of the coil. The Examiner argued clarifying language could aid understanding that one of the strands at a first coil end include a portion

that extends from the second coil end. The claim already expressly recites that each strand end reaches the first coil end. The Germann reference anticipates only strand ends at separated coil regions, and intermediate the ends of the coil. Accordingly, the language suggested by the Examiner to establish that a second end of the strand extends from a second coil end along a longitudinal direction of said coil to a position at said first coil end, emphasizes the first coil end position of both ends of the strand previously stated.

Moreover, this structure provides the advantage that neither strand end is obstructed by the coil during strand end movement. In contrast, both ends of the coil strand shown in Germann are in alignment adjacent to portions of the coil, whereas the strand ends cannot be displaced past the coil. The claimed placement avoid interference with intermediate portions of the coil. In addition, such a structure simplifies connection of the strands to a linkage. While the number of turns in the coil and the length of the coil may vary to adjust spring force for differently weighted decklids, the same links can be attached to the strands, and attached at the same positions, regardless of coil dimensions. The structures providing that advantage are now fully defined in the claims as amended.

These amendments do not add new matter to the application and are fully supported by the original disclosure, for example, the specification at page 7 lines 6-9, Figures 6 and 7, and corresponding portions of the written description. As a result, the amendment does not add new matter to the application and is fully supported by the original disclosure. Moreover, the amendment is made at applicant's first opportunity to address the statements made in the final Office Action, and could not have been made earlier. In fact, the first and second coil ends were positively recited in the previous version of the claims, and it is believed that the clarification merely emphasizes strand configuration that results in coil end structures previously recited in the claim, and does not raise new issues for search or consideration after final action. Accordingly, amendments could not have been made earlier and are properly entered after final action under 37 C.F.R. § 1.116.

The Examiner rejected claims 2, 3 and 11, under 35 U.S.C. § 103 as unpatentable over Germann. As discussed with the Examiner at the interview, the limitations

of claims 2 and 11 further define the present invention over the teachings of Germann. Germann teaches that strand ends are separated and not both at a first end of the coil. In particular, claims 2 and 11 expressly define that a longitudinally extending portion from a second end of the coil to a first end of the coil is positioned within the coil, and no such positioning is taught or suggested by Germann. Rather, such a modification does not result from the teachings of Germann or the other references of record. Accordingly, dependent claims 2 and 3 depending from claim 1, and claim 11 depending from claim 10, respectively, likewise define the present invention over the teachings of the cited prior art reference and other references of record.

The Examiner rejected claim 20 under 35 U.S.C. § 102(b) as anticipated by Lewis. In the Final Office Action, the Examiner argued that the coils of the spring in Lewis extend in a lateral direction and that they extend left or right as shown in Figure 2. However, such a structure is not a laterally coiled spring as defined in the claim. Rather, Lewis discloses a circumferentially wound spring for which all of the loops are circumferentially aligned in a single plane so as to radially expand. The reference does not define coils laterally adjacent to each other so as to form a laterally wound coil having a first coil end and a laterally spaced second coil end. As a result, Lewis fails to anticipate the claimed invention under 35 U.S.C. § 102.

In the final Office Action, the Examiner rejected claims 12, 18 and 19 under 35 U.S.C. § 103 as unpatentable over Shelton in view of Lewis. While the Examiner argued that Shelton discloses a closure hinge, the hinge is normally biased to close the holder 18 with respect to the body mounted panel 22. Moreover, the Lewis invention relates to a hold-open detent, in which a portion of the spring becomes locked in the open position until the spring is removed from the detent, enabling the spring to close the panel 18 against the mounting bracket 22. While applicant had previously argued that the difference in biasing was an important difference between the teachings of the cited reference and the claimed invention, the Examiner noted the absence of such limitations in the claim. Accordingly, the pivot link's relationship to the closure recited in the preamble, is now recited in the claim, and the spring's biasing of the link toward the open position is now expressly recited in the claim.

The Examiner acknowledged that Shelton does not disclose the gooseneck bar, but that the gooseneck bar of Lewis would obviously be incorporated with the teachings of Shelton. However, Shelton does not motivate or teach the skilled artisan of any advantage to replace the panel 18. Moreover, while the gooseneck bars may be used so that a lid can move away from a vehicle body in a spaced relationship, their existence does not motivate the ordinarily skilled artisan to modify the teachings of Shelton. Insofar as movement of the panel 18 moves the panel away from bracket 22, no motivation or any need for additional space or for a gooseneck in Shelton is suggested. Moreover, since Lewis teaches that a gooseneck must pivot in multiple directions to avoid obstruction in the closed position, it does not suggest a simple replacement of Shelton's panel 18 with a gooseneck. Accordingly, the need for modifying Shelton to incorporate a gooseneck as taught by Lewis is motivated only by hindsight application of Applicant's teachings and does not result from the ordinarily skilled artisan applying the teachings of the references with ordinary skill. Accordingly, the claimed invention is not properly determined obvious under 35 U.S.C. § 103.

The changes made above with respect to claim 12 also have been added to claim 20 to clarify important differences between the cited prior art reference of Lewis. In particular, Lewis does not teach or suggest a lever for coupling the pivot link (gooseneck carrying the vehicle closure) to the end of the spring. Rather, Lewis discloses a closure in which the gooseneck bar pivots about an axis for displacement of the closure, and a separate, second pivot forming a universal joint coupling, for the gooseneck bend to move away from a position intruding into the trunk. There is no teaching or suggestion that such dual action pivoting avoiding obstruction of the trunk would lead the person of ordinary skill in the art to add a non-universal link between the spring and the pivot link carrying the closure panel. In particular, the universal hinge member 30 of Lewis performs a substantially different function than a lever pivotally coupled to the spring and the pivot link. Rather, the replacement of the universal hinge member with a lever, unable to pivot orthogonally as taught by Lewis, would be a substantial departure from the teachings of the reference or a combination of cited references. As a result, the application of ordinary skill does not render the present invention obvious from the combined teachings of the references relied upon by the Examiner.

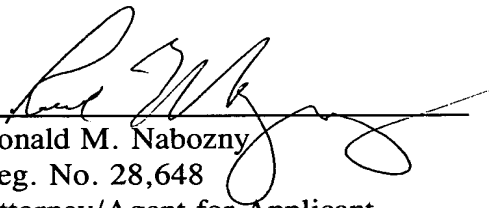
The amendments to claims 12 and 20 are fully supported by the original disclosure and do not add new matter to the application. For example, the biasing to which the present invention is concerned is set forth in the present specification at page 1, lines 8-11. Moreover, the coupling of the closure panel 16 with the pivot link is referred to in the specification at page 5, lines 23-25, drawing Figures 1, 2 and 4 and the corresponding written description. Accordingly, the amendments do not add new matter to the application and are fully supported by the original disclosure.

In addition, the amendments are proper for entry after the final action because they reduce issues remaining to be resolved. In particular, the amendments address features the Examiner argued as not supported by the claims in statements of rejection in the Final Office Action. Accordingly, the amendments address the matters raised by the Examiner in the Final Office Action and could not have been submitted earlier. Moreover, the amendments do not raise issues not previously argued for consideration by the Examiner and subjected to search. Accordingly, this amendment is proper for entry under 37 C.F.R. § 1.116.

In view of the foregoing, applicant respectfully submits that the present application is now in condition for allowance, and such action is respectfully requested. In the event that only a part of the amendments may be entered without raising new issues for search or consideration after final action, the Examiner is respectfully requested to indicate such issues so as to enable the application to be placed in condition for allowance based on the amendments that may be entered after final action.

Respectfully submitted,

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